

August 25, 2008

Jennifer,

This is to inform you of the equipment and personnel that we have at our disposal. I will list what I think you need. We do not know what each industry will be charged until we assess what it will to implement the program.

We will not be doing any in house testing except for pH.

WE have a Sigma automatic sampler , Hach LDO and pH meter.

WE have new trucks

Personnel:

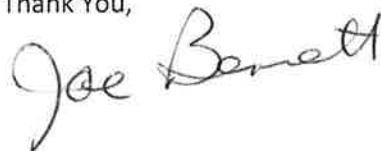
Kevin Bradley – Superintendent

Joe Bennett -Pretreatment Coordinator

Jordan Sapp – Operator Trainee

William Kelly- Operator Trainee

Thank You,

A handwritten signature in cursive script that reads "Joe Bennett". The signature is written in dark ink and is positioned to the right of the typed name "Joe Bennett".

ENFORCEMENT RESPONSE PLAN

OHIO COUNTY REGIONAL SEWER

PRETREATMENT PROGRAM

TABLE OF CONTENTS

- I. Introduction
- II. Provisions for Enforcement in Existing Sewer Use Ordinance
- III. Provisions for Enforcement in Sewer Use Ordinance
- IV. Enforcement Response Guide
- V. Enforcement Responses

INTRODUCTION

A. PURPOSE

An enforcement response plan outlines, in a step-by-step fashion, the procedures to be followed by Control Authority Staff to identify, document, and respond to pretreatment violations. The plan provides guidance in selecting initial and follow-up enforcement actions, indicates staff responsibilities for these actions, and specifies appropriate time frames in which to take them. This guidance manual is to help the Control Authority use its own enforcement expertise to develop a flexible and appropriate enforcement response plan tailored to its particular situation.

In developing this Enforcement Response Plan, the OHIO COUNTY REGIONAL WASTEWATER used two documents. The first is from the Federal Register, 40 CFR Parts 122 and 403. This became law, Tuesday, July 24, 1990. The second document is EPA Manual Guidance for Developing Control Authority Enforcement Response Plans, dated September 1989.

B. PERSONNEL AVAILABLE FOR ENFORCEMENT

1. Kevin Bradley, Superintendent
2. Joe Bennett, Pretreatment Coordinator
3. Frank Martin Jr., OCRWD Attorney

II. PROVISIONS FOR ENFORCEMENT IN EXISTING SEWER USE REGULATIONS (Please find enclosed section of enforcement from Original Sewer Use Regulations)

VIII. ENFORCEMENT PROCEDURES AND PENALTIES

(1) Notification of Violation

Whenever the Superintendent finds that any industrial user has violated or is violating these Regulations, or a wastewater permit or order issued hereunder, the Superintendent or his agent may serve upon said user, written notice of the violation. Within ten (10) days from the receipt date of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted to the Superintendent. Submission of this plan in no way relieves the user of liability for any violations occurring before or after receipt of the Notice of Violation.

(2) Consent Orders

The Superintendent is hereby empowered to enter into Consent Order, assurances of voluntary compliance, or other similar documents establishing an agreement with the industrial user responsible for the noncompliance. Such orders will include specific action to be taken by the industrial user to correct the noncompliance within a time period also specified by the order. Consent orders shall have the same force and effect as administrative orders.

(3) Show Cause Hearing

a. The Superintendent may order any industrial user which causes or contributes to violation of this ordinance or order or wastewater permit issued hereunder, to show cause why a proposed enforcement action should not be taken. Notice shall be served on the user specifying the time and place for the hearing, the proposed enforcement action and the reasons for such action, and a request that the user show cause why this proposed enforcement action should not be taken. The notice of the hearing shall be served personally or by registered or certified mail (return receipt request) at least ten (10) days prior to the hearing. Such notice may be served on any principal executive, general partner or corporate officer. In the event a duly notified industrial user does not appear as noticed, immediate enforcement action may be pursued.

b. At any hearing held pursuant to these Regulations, testimony taken must be under oath and either audio recorded or stenographically. The transcript, so recorded, will be made available to any party of the hearing, and any member of the public upon payment of the usual charges thereof.

(4) Compliance Order

When the superintendent finds that an industrial user has violated or continues to violate the Regulations or a permit or order issued thereunder, he may issue an order to the industrial user responsible for the discharge direction that, following a specified time period, sewer service shall be discontinued unless adequate treatment facilities, devices, or other related appurtenances have been installed and are properly operated. Orders may also contain such other requirements as might be reasonably necessary and appropriate to address the noncompliance, including the installation of pretreatment technology, additional self-monitoring, and management practices.

(5) Cease and Desist Orders

When the Superintendent finds that an industrial user has violated or continues to violate these Regulations or those contained in any permit issued hereunder, the superintendent may issue an order to cease and desist all such violations and direct those persons in noncompliance to:

- a. Comply forthwith,
- b. Comply in accordance with a compliance time schedule set forth in the order, and
- c. Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and terminating the discharge.

(6) Administrative Penalties

Any user who is found to have violated any provision of these Regulations, or the order and permits issued hereunder, shall be fined in an amount not to exceed One Thousand Dollars (\$1,000.00) per violation. Each day on which noncompliance shall occur or continue shall be deemed a separate and distinct violation. Such assessments may be added to the user's next scheduled sewer charge and the Superintendent shall have such other collection remedies as he has to collect other service charges.

(7) Emergency Suspensions

- a. The Superintendent may suspend the wastewater treatment service and/or wastewater permit whenever such suspension is necessary in order to stop an actual or threatened discharge presenting or causing any of the following conditions :

(1) An imminent or substantial endangerment to the health or welfare of persons or the environment.

(ii) An interference or pass through.

(iii) A violation of any condition of the POTW's NPDES permit.

b. Any user notified of a suspension of the wastewater treatment service and/or the wastewater permit shall immediately stop or eliminate its contribution- A hearing will be held within fifteen (15) days of the notice of suspension to determine whether the suspension may be lifted or the user's waste discharge permit terminated. In the event of a failure of the person to comply voluntarily with the suspension order, the superintendent shall take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW system or endangerment to any individuals. The superintendent shall reinstate the wastewater permit and/or the wastewater treatment service upon proof of the elimination of the noncomplying discharge.

c. An industrial user which is responsible, in whole or in part, for imminent endangerment shall submit a detailed written statement describing the causes of the harmful contribution and the measures taken to prevent any future occurrence to the superintendent prior to the date of the hearing described in paragraph b above.

(8) Termination of Permit

Any user who violates the following conditions of this Ordinance of a wastewater discharge permit or order, or any applicable state and federal law, is subject to permit termination:

a. Failure to accurately report the wastewater constituents and characteristics of its discharge,

b. Failure to report significant changes in operations, or wastewater constituents and characteristics,

c. Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring, or sampling, or

d. Intentional violation of permit conditions.

(9) Judicial Remedies

If any person discharges sewage, Industrial wastes, or other wastes into the wastewater disposal system contrary to the provision of this Ordinance or any order or permit issued hereunder, the Superintendent, through the Board Attorney may commence an action for appropriate legal and/or equitable relief in the General Sessions Court of Ohio County.

(10) Injunctive Relief

Whenever an industrial user has violated or continues to violate the provisions of this Regulation or an order or permit issued hereunder, the Superintendent, through the Board Attorney, may petition the Court for the issuance of a preliminary or permanent injunction, or both (as may be appropriate) which restrains or compels the activities on the part of the industrial user. In the event the Superintendent chooses to correct the violation himself, the cost of such correction may be added to the next scheduled sewer service charge payable by the person(s) causing the violation.

The Superintendent shall have such remedies to collect these fees as it has to collect other sewer service charges.

(11) Civil Penalties

a. Any industrial user who has violated or continues to violate this Regulation or any order or permit issued hereunder, shall be liable to the Superintendent for a civil penalty of not more than (maximum allowable under state law, e.g., Five Thousand Dollars [\$5,000.00]) plus actual damages incurred by the POTW per violation per day for as long as the violation(s) continues. In addition to the above described penalty and damages, the Superintendent may recover reasonable attorney's fees, court costs, and other expenses of his enforcement activities, including special sampling and monitoring expenses.

b. The Superintendent shall petition the Court to impose, assess, and recover such sums. In determining amount of liability, the Court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused, by the violation, the magnitude and duration, any economic benefit gained by the industrial user, the compliance history of the user, and other factors as justice requires.

(12) Criminal Violations

a. Any industrial user who willfully or negligently violates this Regulation, or any orders or permits issued hereunder, shall, upon conviction, be guilty of a misdemeanor punishable by a fine not to exceed One Thousand Dollars (\$1,000.00) per

violation, per day, or imprisonment for not more than one (1) year, or both.

b. In the event of a second conviction, the user shall be punishable by a fine not to exceed Three Thousand Dollars (\$3,000.00) per violation, per day, or imprisonment for not more than three (3) years, or both.

c. No person(s) shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance, or equipment which is part of the POTW. Any person(s) violating this provision shall be subject to immediate arrest under charge of disorderly conduct. It shall be noted that the Clean Water Act does not require proof of specific intent to obtain conviction.

(13) Falsifying Information

a. Any industrial user who knowingly makes any false statements, representations, or certifications in any application, record, report, plan, or other document filed or required to be maintained pursuant to this Regulation, or wastewater permit, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this Regulation shall, upon conviction, be punished by a fine of not more than One Thousand Dollars (\$1,000.00) per violation, per day, or imprisonment for not more than one (1) year, or both.

b. In the event of a second conviction, the user shall be punishable by a fine not to exceed Three Thousand Dollars (\$3,000.00) per violation, per day, or imprisonment for not more than three (3) years, or both.

(14) Annual publication of Significant Violations

The Superintendent shall publish, at least annually in the largest daily newspaper circulation in the service area, a description of those industrial users which are found to be in significant violation, as defined by Article I of this Regulation, with any provisions of this Regulation or any order or permit issued hereunder during the period since the previous publication.

(15) Performance Bonds

The Superintendent may decline to reissue a permit to any industrial user which has failed to comply with the provisions of this Regulation or any order or previous

permit issued hereunder unless such user first files with it a satisfactory bond, payable to the POTW, in a sum not to exceed a value determined by the Superintendent to be necessary to achieve consistent compliance.

(16) Liability Insurance

The superintendent may decline to reissue a permit to any industrial user which has failed to comply with the provisions of this Regulation or any order or previous permit issued hereunder, unless the industrial user first submits proof that it has obtained financial assurances sufficient to restore or repair POTW damage caused by its discharge.

(17) Water Supply Severance

Whenever an industrial user has violated or continues to violate the provisions of this Regulation or an order or permit issued hereunder, water service to the industrial user may be severed and service will only recommence at the user's expense after it has satisfactorily demonstrated consistent compliance.

Affirmative Defenses

(1) Operating **Upsets**

a. Any industrial user which experiences an upset in operations that places it in a temporary state of noncompliance, which is not the result of operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operations shall inform the Superintendent thereof immediately upon first awareness of the upset. Where such information is given orally, a written report thereof shall be filed by the user within five (5) days. The report shall contain:

(i) A description of the upset, its cause(s) and impact on the discharger's compliance status,

(ii) The duration of noncompliance, including exact dates and times of noncompliance, and if the noncompliance is continuing, the time by which compliance is reasonably expected to be restored, and

(iii) All steps taken or planned to reduce, eliminate, and prevent recurrence of such an upset.

b. An industrial user which timely complies with the

notification provisions of this Section shall have an affirmative defense to any enforcement action brought by the Superintendent for any noncompliance with this Regulation, or an order or permit issued hereunder by the user, which arises out of violations alleged to have occurred during the period of the documents and verified upset.

PROVISIONS FOR ENFORCEMENT IN SEWER USE ORDINANCE

Comply with the public participation requirements of 40 CFR part 25 in the enforcement of national pretreatment standards, These procedures shall include provision for at least annual public notification, in the largest daily newspaper published in the municipality in which the POTW is located, of industrial users which, at any time during the previous twelve months, were in significant noncompliance with applicable pretreatment requirements. For the purpose of this provision, an industrial user is in significant noncompliance if its violation meets one or more of the following criteria:

- I. (A) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six (66) percent or more of all the measurements taken during a six- month period exceed (by any magnitude) the daily maximum limit or the average limit for the same pollutant parameter;
- (B) Technical Review Criteria (TRC) violations, defined here as those in which thirty-three (33) percent or

more of all of the measurements for each pollutant parameter taken during a six-month period equal or exceed the product of the daily maximum limit or the average limit multiplied by the applicable TRC (TRC=1.4 for BOD, TSS, fats, oil and grease, and 1.2 for all other pollutants except pH.

- (C) Any other violation of a pretreatment effluent limit (daily maximum or longer-term average) that the Control Authority determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health or POTW personnel or the general public);
- (D) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the POTW's exercise of its emergency authority under paragraph (f) (1) (vi) (B) of this section to halt or prevent such a discharge;
- (E) Failure to meet, within 90 days after the schedule date, a compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction, or attaining final compliance;
- (F) Failure to provide, within 30 days after the due date, required reports such as baseline monitoring reports, 90-day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance

schedules;

- (G) Failure to accurately report noncompliance;
- (H) Any other violation or group of violations which the Control Authority determines will adversely affect the operation or implementation of the local pretreatment program.

The definition of significant non-compliance (SNC) according to final regulations in the Federal Register (40CFR 403.8 (f) (2) (vii)). *page 30130 Fed. Reg. Tues., July 24, 1990 40CFR Parts 122 and 403

- 2. (A) Affirmative Defenses. A user shall have an affirmative defense in any action brought against its alleging a violation of the general prohibitions establishes in paragraph (a) (1) of this section and the specific prohibitions in paragraphs (b) (3), (b) (5), (b) (6), and (b) (7) of this section where the user can demonstrate that:

- (1) Pollutants which create a fire or explosion hazard in the POTW, including, but not limited to, wastestreams with a closed cup flashpoint of less than 140 degrees Fahrenheit or 60 degrees Centigrade using the test methods specified in 40CFR 261.21.
- (2) Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin in amounts that will cause interference or pass through;
- (3) Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems;
- (4) Any trucked or hauled pollutants, except at discharge points designated by the POTW.

-----each POTW with an approved pretreatment

program shall continue to develop these limits as necessary and effectively enforce such limits.

EPA enforcement actions under section 309(f) of the Clean Water Act. If, within 30 days after notice of an Interference or Pass Through Violation has been sent by PEA to the POTW, and to persons or groups who have requested such notice, the POTW fails to commence appropriate enforcement action to correct the violations, EPA may take appropriate enforcement action under the authority provided in section 309(f) of the Clean Water Act. Section 403.6 is amended by revising the introductory text to read as follows:

National pretreatment standards specify quantities or concentrations of pollutants or pollutant properties which may be discharged to a POTW by existing or new industrial users in specific industrial subcategories will be established as separate regulations under the appropriate subpart of 40CFR Chapter I, Subchapter N. These standards, unless specifically noted otherwise, shall be in addition to all applicable pretreatment standards and requirements set forth in this part.

Section 403.8 is amended by revising the section heading, the introductory text to paragraph (f), paragraphs (f) (1) (iii), (f) (1) (vi) (B), (f) (2) (vii), adding text to the end of (f) (2) (iii), and adding new paragraph (f) (5) and (f) (6) to read as follows:

The existing and revised definitions of prohibited discharges. (40CFR 403.5; 40CFR 403.6 (d) and 40CFR 403.6 (a)). *page 30129
Fed. Reg. Tues., July 24, 1990 40CFR Parts 122 and 403.

A POTW pretreatment program must be based on the following legal authority and include the following procedures. These authorities and procedures shall at all times be fully and effectively exercised and implemented.

Control through permit, order, or similar means, the contribution to the POTW by each Industrial User to ensure compliance with applicable Pretreatment Standards and Requirements. In the case of Industrial Users identified as significant under 40CFR 403.3 (t), this control shall be achieved through permits or equivalent individual control mechanisms issued to each such user. Such control mechanisms must be enforceable and contain, at a minimum, the following conditions:

3. (A) Statement of duration (in no case more than five years);
- (B) Statement of non-transferability without, at a minimum, prior notification to the POTW and provision of a copy of the existing control mechanism to the new owner or operator;
- (C) Effluent limits based on applicable general pretreatment standards in part 403 of this chapter, categorical pretreatment standards, local limits, and State and local laws;
- (D) Self-monitoring, sampling, reporting, notification and recordkeeping requirements, including an identification of the pollutants to be monitored, sampling location, sampling frequency, and sample type, based on the applicable general pretreatment standards in part 403

of this chapter, categorical pretreatment standards, local limits, and State and local law;

- (E) Statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements, and any applicable compliance schedule. Such schedules may not extend the compliance date beyond applicable federal deadlines.
- (F) Pretreatment requirements which will be enforced through the remedies set forth in paragraph (f) (1) (vi) (A) of this section, will include but not be limited to, the duty to allow or carry out inspections, entry, or monitoring activities; any rules, regulations, or orders issued by the POTW; any requirements set forth in individual control mechanisms issued by the POTW; or any reporting requirements imposed by the POTW or these regulations. The POTW shall have authority and procedures (after informal notice to the discharger) immediately and effectively to halt or prevent any discharge of pollutants to the POTW which reasonably appears to present an imminent endangerment to the health or welfare of persons. The POTW shall also have authority and procedures (which shall include notice to the affected industrial users and an opportunity to respond) to halt or prevent any discharge to the POTW which presents or may present an endangerment to the environment or which threatens to interfere with the

operation of the POTW. The Approval Authority shall have authority to seek judicial relief and may also use administrative penalty authority when the POTW has sought a monetary penalty which the Approval Authority believes to be insufficient.

Within 30 days of approval pursuant to 40CFR 403.8 (f) (6), of a list of civil significant industrial users, notify each significant industrial user of its status as such and of all requirements applicable to it as a result of such status.

Randomly sample and analyze the effluent from industrial users and conduct surveillance activities in order to identify, independent of information supplied by industrial users, occasional and continuing noncompliance with pretreatment standards. Inspect and sample the effluent from each Significant Industrial User at least once a year. Evaluate, at least once every two years, whether each such Significant Industrial User needs a plan to control slug discharges. For purpose of this subsection, a slug discharge is any discharge of a non-routine, episodic nature, including but not limited to an accidental spill or non-customary batch discharge. The results of such activities shall be available to the Approval Authority upon request. If the POTW decides that a slug control plan is needed, the plan shall contain, at a minimum, the following elements:

- (A) Description of discharge practices, including non-routine batch discharges;
- (B) Description of stored chemicals;
- (C) Procedures for immediately notifying the POTW of slug

discharges, including any discharge that would violate a prohibition under 400FR 403.8 (b), with procedures for follow-up written notification within five days;

- (0) If necessary, procedures to prevent adverse impact from accidental spills, including inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site run-off, worker training, building of containment structures or equipment, measures for containing toxic organic Pollutants (including solvents), and/or measures and equipment for emergency response.

POT~ legal authority requiremen~5, (40CFR 403.8 (f) (1) and

(2)).Special attention must be given to 400FR 403.8 (f) (1) (vi) A, revised on October 17, 1988, which requires "All POTWs shall also have authority to seek or assess civil or criminal penalties in at least the amount of One Thousand (\$1,000.00) Dollars a day f or each violation by industrial users of pretreatment standards and requirements. This section also includes that all POTWS have authority to inspect and copy records (40 CFR 403.12 (0) (2)) and also authority to ensure that effluent data is made available to the publjc-40 CFR 403.8 (f) (1) (vii) and 40 CFR 403.14).

4. Personnel Available for the Enforcement Response Plan

are as follows:

- | | | |
|----|---------------|--------------------------|
| 1. | Kevin Bradley | Superintendent |
| 2. | Joe Bennett | Pretreatment Coordinator |
| 2. | Frank Martin | Board Attorney |

IV. ENFORCEMENT RESPONSE GUIDE

V. ENFORCEMENT RESPONSES

1. A. NOTICE OF VIOLATION

The most common form of a Notice of Violation (NOV) is an official communication from the Control Authority to the non-compliant industrial user which informs the user that a pretreatment violation occurred. The NOV is an appropriate initial response to nonsignificant violations. In case of significant noncompliance, a NOV may also be issued prior to issuing an administrative order or pursuing judicial remedies.

The NOV's purpose is to notify the industrial user of the violation(s). It may be the only response necessary in cases of infrequent and generally minor violations. Some POTWs use NOV's as a vehicle to assess administrative fines or to impose compliance schedules, for purpose of this discussion the NOV is defined in its basic function: to inform industrial users that a pretreatment violation has taken place. If the user does not return to compliance following receipt of the NOV, the Control Authority should proceed to more stringent enforcement measures.

(B) RECOMMENDATIONS FOR NOV ISSUANCE

For maximum effectiveness, the NOV should be written and delivered to the user immediately upon detection of the violation. As a general rule, the NOV should be received by the user no later than five business days after discovery of the noncompliance. To ensure that NOV's are promptly issued, the Control Authority should predetermine which of its personnel may issue and/or deliver the NOV. The NOV should either be hand-delivered to the industrial user by Control Authority personnel or be sent to the industrial user via certified mail.

Authenticated copies of NOV's may serve as evidence in judicial proceedings. Therefore, a copy of each NOV, signed by the responsible Control Authority official, should be placed in the industrial user's file, along with the certified mail receipt or similar statement by the person who delivered it. In addition, the official responsible for tracking pretreatment compliance (if not the issuer) should be informed of the NOV's issuance. If the

Control Authority uses an automated compliance tracking system (such as the PCME software), issuance of the NOV should be entered into the system. These actions will facilitate closer monitoring of the noncompliant user's corrective actions and self-monitoring reports. Many Control Authorities schedule routine inspections and sampling visits to focus on facilities which have recently received NOV's. If the user does not return to compliance, the Control Authority should escalate to more stringent enforcement responses rather than repeatedly issuing NOV's which do not result in a return to compliance.

2. A. ADMINISTRATIVE FINES

An administrative fine is a monetary penalty assessed by the Control Authority for violations of pretreatment standards and requirements. Administrative fines are among the most effective responses to user noncompliance because they may be assessed at the Control Authority's discretion and the amount of the fines may be determined on an individual basis. Administrative fines differ from civil penalties (penalties imposed through court proceedings), since fines are assessed by the Control Authority directly and do not require court intervention unless the user contests the action or refuses to pay the fines. Administrative fines are punitive in nature and are not related to a specific cost born by the Control Authority. Instead, fines are to recapture the full or partial economic benefit of noncompliance, and to deter future violations.

(B). WHEN TO ASSESS ADMINISTRATIVE FINES

Administrative fines are recommended as an escalated enforcement response, particularly when NOV's or administrative orders have not prompted a return to compliance. Whether administrative fines are appropriate responses to noncompliance also depends greatly on the circumstances surrounding the violation. When using this enforcement response, either singly or in conjunction with another response (e.g., an administrative order requiring the industrial user to take steps to return to compliance), the Control Authority should consider the following factors:

- * The type and severity of the violation
- * The number of violation cited
- * The duration of the noncompliance
- * The impact of the violation on the wastewater treatment plant and the environment (e.g., whether the violation caused pass through or interference)
- * Whether the violation threatened human health
- * Whether the industrial user derived any economic benefit or savings from the noncompliance
- * The compliance history of the user
- * Whether the user is making good faith efforts to restore compliance
- * Other policy considerations normally involved in an enforcement decision

Suggestions for instances when fines are particularly appropriate include:

- * When the industrial user remains in noncompliance after receiving repeated NOV's

- * When the industrial user violates the terms of an administrative order (such as failing to meet a compliance schedule deadline)

3. A. ADMINISTRATIVE ORDERS

Administrative Orders (AO's) are enforcement documents which direct industrial users to undertake or to cease specified activities. The terms of AO's may or may not be negotiated with industrial users. Administrative orders are recommended as the first formal response to significant noncompliance (unless judicial proceedings are more appropriate), and may incorporate compliance schedules, administrative penalties, and termination of service orders. This section focuses on four common types of administration orders:

- * Cease and desist orders
- * Consent orders
- * Show Cause orders
- * Compliance orders

4. A. CIVIL LITIGATION

Civil litigation is the formal process of filing lawsuits against industrial users to secure court ordered action to correct violations and to secure penalties for violations including the recovery of costs to the POTW of the noncompliance. It is normally pursued when the corrective action required is costly and complex,

the penalty to be assessed exceeds that which the Control Authority can assess administratively or when the industrial user is considered to be recalcitrant and unwilling to cooperate. The term "civil litigation" also includes enforcement measures which require involvement or approval by the courts, such as injunctive relief and settlement agreements. Civil litigation is similar to criminal prosecution in that it requires the full cooperation of the attorney and may result in court trials of industrial users and assessment of penalties. However, civil litigation is conducted for different purposes and requires a less stringent burden of proof in order for the Control Authority to prevail.

5. A. CRIMINAL PROSECUTION

Criminal prosecution is the formal process of charging individuals and/or organizations with violations of ordinance provisions that are punishable, upon conviction, by fines and/or imprisonment. The purposes of criminal prosecution are to punish noncompliance established through court proceedings and to deter future noncompliance. Criminal offenses are traditionally defined as either felonies or misdemeanors. Under Federal law, felonies are offenses punishable by death or imprisonment for a term exceeding one year. Examples of environmental crimes characterized as felonies under the Clean Water Act are knowing violations of the Act and knowing endangerment of human health. Knowing violations of the Act are punishable by fines up to \$50,000 per day of violation, imprisonment for up to 3 years, or both; knowing endangerment (placing another person in

imminent danger of death or serious bodily injury) is punishable by fines up to \$1,000,000 (in the case of a corporation), imprisonment of up to 15 years, or both. Fines and prison sentences under the Act are doubled for second offenses. Federal law defines misdemeanors as offenses other than felonies. Misdemeanors are generally punishable by fines of up to \$1,000 or imprisonment for less than 1 year. Most offenses punishable under local sewer use ordinances such as tampering with monitoring equipment, falsifying self-monitoring reports, or failing to report illegal discharges are misdemeanors. There are two elements to a crime: (1) an act in violation of the law; and (2) criminal intent. Acts which might themselves be characterized as "criminal" may not result in prosecution if the prosecutor cannot prove intent or criminal negligence. In other words, the industrial user either must have intended to break the law or was so indifferent to the nature and implications of its act that it could be deemed criminally negligent. Unless a prosecutor can prove both of these elements, criminal prosecution is not a viable enforcement option.

6. A. TERMINATION OF SEWER SERVICE

Termination of service is the revocation of an industrial user's privilege to discharge industrial wastewater into the Control Authority's sewer system. Termination may be accomplished by physical severance of the industry's connection to the collection system, by issuance of an AO which compels the user to terminate its discharge, or by a court ruling. However, since termination of service may force industries to halt production and

may force closure (if discharge privileges are not reinstated), the Control Authority must carefully consider all of the legal and operational implications of termination before using this enforcement response.

B. WHEN TO TERMINATE SERVICE

Termination of service is an appropriate response to industries which have not responded adequately to previous enforcement responses. When the Control Authority must act immediately to halt or prevent a discharge which presents a threat to human health, the environment or the POTW, cease and desist orders and termination of service are the only appropriate responses. Unlike civil and criminal proceedings, termination of sewer service is an administrative response which can be implemented directly by the Control Authority. For example, a facility manufacturing bleach in Phoenix, Arizona, discharged wastewater with high concentrations of chlorine residual into the collection system. The chlorine fumes were noticed immediately and forced evacuation of the treatment plant and collection system. Sampling detected a chlorine residual concentration of 10,000 parts per million (ppm) while the City's standard for chlorine residual was only 1 ppm. The situation was declared an imminent hazard and service was terminated immediately. Once the danger had passed, service was restored within a week. This situation illustrates the importance of the Control Authority's ability to terminate service to an industrial user. This power should be available regardless of the user's compliance status. (e.g., when a sewer line is

broken or destroyed). The decision to terminate requires careful consideration of its legal and procedural consequences. It is likely that forcing an industrial user to halt production will damage the industry's economic position. Nonetheless, this drastic measure is sometimes necessary to address emergency situations or industries resistant to previous enforcement measures. Service termination is sometimes used as an initial response to noncompliance which causes or threatens to cause an emergency situation. However, it is more frequently used as an escalated response to a significant violation when other enforcement responses fail to bring the industrial user into compliance. Assuming other enforcement responses are unsuccessful, the types of violations warranting termination of service are:

- * Unpermitted discharge(s) which violate the POTW's NPDES permit or which create a dangerous situation threatening human health, the environment, or the treatment plant
- * Discharge(s) that exceed local or categorical discharge limits and results in damage to the environment
- * Slug loads causing interference, pass through, or damage to human health, the environment, or the treatment plant
- * Failure of the industrial user to notify the Control Authority of effluent limit violations or slug discharge which resulted in environmental or POTW damage
- * Complete failure of the industrial user to sample, monitor, or report as required by a AO
- * Failure of the industrial user to install required monitoring equipment per the condition of an AO
- * Major violation of a permit condition or AO

accompanied by evidence of negligence or intent

7. Many Control Authorities are discovering the utility of "supplemental" or innovative enforcement responses to complement the more traditional enforcement responses described in the preceding sections. Normally, these responses will be used in conjunction with more traditional approaches. Supplemental enforcement responses are typically low cost and are designed to reinforce the compliance obligations of industrial users. The application of these response must be determined on an individual basis.

Many supplemental response require actions on the part of noncompliant users. To ensure that users are legally bound to perform these actions, the techniques should be included as terms of administrative orders or settlement agreements. When considering supplemental enforcement responses, the Control Authority should not consider itself limited to those responses discussed in this section and is encouraged to experiment to develop additional supplemental responses.

(A) SUPPLEMENTAL ENFORCEMENT RESPONSE FOR WHICH SPECIFIC
LEGAL AUTHORITY IS NECESSARY

(1) PUBLIC NOTICES

According to EPA regulations, all Control Authorities must comply with the public participation requirements of 40 CFR part 25. Among these requirements is annual publication of a list of industrial users which were significantly violating applicable pretreatment standards or requirements (see 40 CFR 403.8 (f) (2)

(vii)) Publication of this list is intended to deter industrial users from committing pretreatment violations and to satisfy the public's right to know of violations affecting its immediate environment and causing additional expenditures of public funds to operate and maintain the treatment system.

(2) WATER SERVICE TERMINATION

Common procedures for terminating sewer services to noncompliant industrial users (including its effectiveness as an enforcement response) were discussed above (see Section 5.6). However, where available to the Control Authority, termination of water service has proven equally effective. Like sewer termination, the lack of fresh water will force industries to halt production until service is restored (that is, once corrective measures acceptable to the Control Authority are undertaken by the user). Some Control Authorities have jurisdiction over both water and sewer services, making termination of water service for noncompliance with the pretreatment program a relatively simple matter. Others have entered into interagency agreements with the local water works which provide that either agency will terminate a user's service at the request of the other agency. Regardless of the jurisdictional situation, the Control Authority should clearly indicate to its industrial users that violations of the Regulations or any permits and orders issued pursuant to the ordinance may also result in the severance of water services. For more information on specific Regulations, language, see the language set out in Chapter 3 of this guidance.

Generally, industrial users demonstrating a history of noncompliance should be subject to increased surveillance (i.e., sampling and inspections) by the Control Authority. Since

recurring violations indicate that at least one chronic problem exists at the facility, the Control Authority should monitor the user closely and require additional user self-monitoring until the problem is corrected and consistent compliance is demonstrated. For example, where a pretreatment system is found to be inadequate to meet applicable limits, an AO requiring installation of additional technology should also include an increased self-monitoring frequency (e.g., a requirement to monitor quarterly may be increased to monthly). Increased surveillance and more stringent self-monitoring requirements for chronic violators will also provide a powerful incentive to return to compliance. The increased compliance information will aid the Control Authority's enforcement program in several ways. First, it provides greater data on the extent of the user's noncompliance. Second, given the expense involved in monitoring, requiring the user to perform more frequent pollutant analyses serves to deter further violations. Finally, the additional data will allow the user to demonstrate that consistent compliance has, in fact, been achieved. Of course, the Control Authority should also schedule its own inspection and sampling visits on a more frequent basis to verify the increased self-monitoring data. A number of Control Authorities have also found that charging the industry for this additional Control authority monitoring (both sampling and analysis) increase the effectiveness of the enforcement response. Furthermore, these additional monitoring fees will ensure that the Control Authority has adequate resources to screen and interpret the additional

compliance information received from the noncompliant industry, and not force a reduction in monitoring for other industrial users. The requirement to monitor more frequently must not be "open-ended," and should automatically terminate on a specific date or when a specific contingency has been satisfied. For example, an AO may only require the increased monitoring for a six-month period (assuming the problem can be corrected in six months). Alternatively, the order could require the intensive monitoring to continue until six consecutive months show compliance. It is essential that the Control Authority's compliance information be as current as possible. Consequently, the frequency of the industrial user's reporting schedule must also be increased to coincide with increased self-monitoring requirements. For example, semiannual reporting should be increased to monthly or bi-weekly, depending on the severity of the problem while the additional self-monitoring is being conducted.

(2) REWARDS FOR INFORMANTS

To a great extent, the pretreatment program relies on self-monitoring activities conducted by industrial users. Since this self-monitoring information can form the basis of an enforcement action, there is an inherent danger that an industrial user will resort to fraud or misrepresentation to conceal noncompliance. Therefore, the Control Authority must verify self-monitoring results to the greatest extent possible. Several Control Authorities have gone beyond simply conducting periodic analysis themselves and have instituted programs designed to encourage

individuals with information about an industrial user's noncompliance to come forward. A significant reward and the promise of anonymity often encourage such individuals or groups to submit noncompliance information to the Control Authority. This outside information may come from several sources, including industry employees, laboratories conducting discharge analyses, and honest competitors who discover the noncompliance. In many cases the reward program is set out in the Control Authority's sewer use Regulations. Frequently, a base reward program of \$100 to \$500 is offered for information which leads to effective enforcement. In addition, informants may receive up to 10 percent of any administrative, civil, or criminal penalty collected from the noncompliant user.

(3) SHORT TERM PERMITS

For Control Authorities with large number of industrial facilities (for example, 15 or more), the permit renewal process represents the best opportunity to evaluate the sufficiency of treatment and the compliance status of each industrial user. Permit reapplications provide updated data on the facility and are often cause for a comprehensive sampling and inspection visit by the Control Authority. The process also helps to make industries aware of new or revised pretreatment requirements and obligations and to evaluate the need for onsite spill control plans. Most local regulations prohibit permit durations of "more than five years." However, few contain a minimum permit duration. Consequently, the length of a permit effective period is a

discretionary matter. The Control Authority can use a permit's duration to force an "early look" at a noncompliant industry by issuing it a short-term permit. In addition to scheduling a comprehensive review of the industrial user's circumstances, a short-term permit can be used to increase self-monitoring and reporting requirements as well as to impose a compliance schedule which concludes shortly before permit expiration. The permit renewal process provides both an opportunity to accurately measure the industrial user's progress and leverage to ensure that necessary improvements in the facility's operation are being accomplished. Generally, an effective period of between 12 and 18 months will serve as a sufficient interval for a facility to achieve consistent compliance. Control Authorities which charge a substantial permit renewal fee (e.g.l, \$1000) have also found the issuance of short-term permits to be an effective deterrent to noncompliance.

(4) CASE REFERRAL TO THE APPROVAL AUTHORITY

The Approval Authority always has the option to take independent enforcement action when it deems necessary. Even though a Control Authority's enforcement authorities may be extensive, there may be occasions when it finds it impossible to force a particular industrial user to achieve consistent compliance. For example, a Fortune 500 corporation may be financially able to withstand fines or penalties of \$1000 per day without achieving consistent compliance for a considerable period. In these circumstances, it may be appropriate for the Control

Authority to refer the matter to the Approval Authority (or EPA if different). This referral may result in joint action with the Approval Authority or action by the Approval Authority alone. The penalties available to most Approval Authorities are substantially greater than those available to Control Authorities. For example, the Clean Water Act allows EPA to impose administrative fines to up to \$125,000 per action to seek civil penalties of up to \$25,000 per day violation and criminal penalties of up to \$1 million and/or 15 years imprisonment (see 33 U.S.C. 309). While State sanctions may not be as severe as EPA's enforcement responses, most provided for substantial civil and criminal penalties. Even where the Approval Authority undertakes enforcement, the Control Authority is expected to continue to track an industrial user's compliance and take such additional enforcement actions, including joining the State or Federal action when necessary. Cooperation with the Approval Authority in enforcement actions also provides Control Authority training in enforcement methods (both investigatory and legal), increases the deterrent value of initial Control Authority responses, and results in more constructive public relations, (i.e., the community is reassured that stringent enforcement of its environmental laws is a reality).



ENVIRONMENTAL SCIENCE CORP.

12065 Lebanon Rd.
Mt. Juliet, TN 37122-2508
(615) 758-5858
1-800-767-5859
FAX (615) 758-5859

Est. 1970

TENNESSEE PRETREATMENT ASSOCIATION & EPA REGION IV CONFERENCE
April 14, 1998 - Gatlinburg, TN

POLLUTANT SOURCES - by Byron Ross

Arsenic: Wood Preservatives, by-product of copper & lead smelters, agricultural products, glass, nonferrous alloys.

Beryllium: Fuel containers, aircraft disc brakes, X-ray transmission windows, heat shields, precision instruments, mirrors, nuclear weapons & reactors. Beryllium oxide is used to make specialty electrical & high tech ceramics, electronic insulators, microwave oven components.

Cadmium: Metal Plating, nickel-cadmium & other batteries, pigments, plastic stabilizers, pesticides, alloys, chemical reagents.

Chromium: Alloying & Plating element on metal & plastic substrates, protective coatings for automotive & equipment accessories, electroplating cleaning agents, industrial water treatment including treatment of cooling tower water, drilling muds, refractories, mordants in textile industry, fungicides, wood preservatives, dyes & pigments, sensitizer in photographic industry, medical astringents & antiseptics, leather treatment/ tanning, nuclear & high temperature research.

Copper: Plumbing/piping, paints & pigments, corrosion inhibitor, electroplating processes, insecticide, fungicide, herbicide, pigment for ceramics, mildew preventive, paper products, glass, controlling algae & aquatic plant growth, water resistant adhesives for wood, synthetic rubber, varnishes, battery electrodes, cement, stabilizer for polyurethanes & nylons, fuel additive, flameproofing, printing & photocopying, dyeing & printing textiles, manufacture of indelible, invisible, & laundry marking inks; refining of copper, silver & gold; to remove lead compounds from gasoline & oils/petroleum purifying agent, photography. anti-fouling agent, used in silver, brass, & copper-tin alloy plating.

Lead: Plumbing, batteries, ammunition, electrical equipment (circuit boards for computers & other electronic circuitry), television glass, metal products-sheat lead-solder-pipes, ceramic glazes, roofing materials, medical equipment, scientific & military equipment (tracking systems). (*Synonyms: Plumbum, pigment metal*).

Mercury: Thermometers, Hg switches, barometers, batteries containing Hg are used in devices ranging from guided missiles to hearing aids, cameras, calculators, smoke detectors; electric or mercury lamps for outdoor lighting (floodlights/street lights), used in diuretics, antiseptics, & skin preparations. Also used in dental amalgams, pigments/paints (~1/3 of all interior latex paint contained varying levels of Hg), lubrication oils. (*Synonyms: quicksilver, liquid silver, hydrargyrum, kwik*).

Molybdenum: Molybdates used in corrosion inhibitors- recirculating cooling water & boiler water corrosion control additives or resin treatment cartridges (0.1 to 15 mg/L), lubricating oils, alloy element in steels, cast iron & non-ferrous metals, nuclear medicine-to form technitium used in imaging, smoke suppressant as ingredient in plastics, Foods (beans, peas & other legumes due to Mo being essential media nutrient for nitrogen fixation, cereal grains, organ meats, leafy vegetables).

Nickel: Steels & alloys, permanent magnet materials, nickel-cadmium batteries, electroplating, ceramics, soil, vegetation, fuel oil combustion, stormwater runoff, colored glass, textiles.

Selenium: Pigments in plastics, paints, enamels, inks, & rubber. Anti-dandruff shampoos, recitifiers for home entertainment equipment, red or black glass, veterinary medicine(fungicide & insecticide), foods(grains, cereals, meats, seafood).

Zinc: Oils, lubricants & greases, paints & inks, cosmetics & medicines, rubber (anti-stick agent), powders, piping, floor cleaners & polishers, batteries & electrical equipment, cooling & boiler water additive to control biofilm, soil/runoff, soure water or city water—use of zinc polyphosphate or is groundwater or surface water source high in Zn?, soaps, TV screens, flourescent lights, luminous dials.

Phenols: Phenolic resins used in plywood adhesive, construction, automotive & appliance industry. Intermediate in production of caprolactum-used to make nylon & other synthetic fibers. Disinfectant, slimicide, anesthetic in medicinal preparations including ointments, ear & nose rops, cold sore lotions, throat lozenges, antiseptic lotions. Bisphenol A is used to make epoxy & other resins. Pentachlorophenol used as industrial wood preservative for utility poles, fence posts, & used at sawmills.

Cyanide: Electroplating, metallurgy, production of organic chemicals, anti-caking agents in road salts, plastic manufacturing, chelating agents, insecticides, dyes & pigment manufacturing, extraction of gold & silver from ores, photographic development.

Ammonia: Household cleaner, bleaching agent, refrigerant, fertilizer production, plastics, explosives, pharmaceuticals, metal treatment operations (i.e. sodium hydride descaling, nitriding), defoliant agent, rubber industry for stabilization of raw latex to prevent coagulation.

Phthalates: Platicizers in PVC resins for fabricating flexible vinyl products (PVC resins used in shower curtains, toys, components of paper & paperboard, adhesives, food containers), cosmetic products, mosquito repellents, detergents, aftershave lotions, skin care preparations, fixative in perfumes, nail polish & nail polish remover, tape applications, food applications.

Naphthalene: Natural component of petroleum & coal, moth repellents/mothballs or crystals, toilet & diaper pail deodorant blocks, leather tanning agents, intermediate in production of phthalic anhybride used in production of resins, plasticizers, dyas, & pharmaceuticals.

Benzene: Synthetic rubbers & fibers, liquid detergents, some plastics, adhesives, radios, textiles, automobiles, tires, appliances, motor vehicle gasoline component, carpet glue, furniture wax.

Carbon Tetrachloride: Use in manufacturing of refrigerants and propellants for aerosol cans, petroleum refining, pharmaceutical manufacturing, general solvent use, until mid 1960s widely used as a cleaning fluid- degreasing agent, spot remover and in fire extinguishers. (syn: *carbona, tetrachloromethane*)

Chloroform: Can form in water w/ use of chlorine compounds (including HTH, sodium hypochlorite), plastics, solvent for lacquers, floor polishes, artificial silk manufacture, resins, fats, greases, gums, waxes, adhesives, oils, rubber. Industrial solvent in extraction & purification of some antibiotics, vitamins, flavors. (syn: *methane trichloride, trichloromethane*).

Methyl Ethyl Ketone: Solvent for coatings, adhesives, magnetic tapes, printing inks, & pesticides. As an extraction solvent for hardwood pulping & vegetable oil, colorless synthetic resins, as a fragrance and flavoring agent in candy & perfumes, lacquering & varnishing, artificial leather, lubricating oils, cleaning fluids, fabric coating, cements, smokeless powder (syn: *MEK, 2-butanone, methyl acetone*).

Methylene Chloride: Industrial solvent, cleaning & thinning uses, aerosol products such as coatings, paint removers, hair sprays, room deodorants, herbicides, insecticides. Metal degreasing, foam blowing of polyurethanes, stripping and degreasing in the electronics industry, polycarbonate resin production. (syn: *dichloromethane, methylene dichloride* - trade names: *Aerothene, MM, Freon 30, Narkotil, R30, Solaestin, & Solmethine*).

Tetrachloroethylene: Dry cleaning, metal degreasing. In smaller quantities used in rubber coatings, solvent soaps, printing inks, adhesives & glues, sealants, lubricants, pesticides. (syn: *Perchloroethylene, PCE, Perc, ethylene tetrachloride, perchlor*)

Toluene: Component of gasoline, 1% used in solvents in paints, inks, adhesives, & cleaning agents. Production of pharmaceuticals, dyes, cosmetic nail products. Used in chemical synthesis of benzene, urethane foams. (syn: *phenyl methane, methyl benzol, toluol, methyl benzene*).

1,1,1-Trichloroethane: Solvent for adhesives and in metal degreasing, pesticides, textile processing, cutting fluids, aerosols, lubricants, cutting oil formulations, drain cleaners, shoe polishes, spot cleaners, printing inks. Industry cleaning (vapor degreasing of precision instruments, molds, electrical equipment, circuit boards), circuit board fabrication and in semiconductor industry for secondary cleaning, cleanin of printing presses, food packaging machinery. (syn: *methyl chloroform, chloroethane, methyltrichloromethane*)- No longer to be made in US after 1996.

Trichloroethylene: Solvent to remove grease from metal parts, particularly in the automotive and metals industries, found in household products- typewriter correction fluid, paint removers, adhesives, spot removers, rug cleaning fluids. (syn: *ethylene trichloride, triclene, acetylene trichloride, NCI-CO4546, 1,1,2-trichloroethylene*).

Vinyl chloride: Parent component of PVC. Containers, pipes, hose, flooring, wrapping film, battery cell separators, refrigerant gas, electrical insulation. (syn: *VC, chloroethene, ethylene monochloride, monochloroethylene*).

Xylenes: Manufacture gasoline, reforming petroleum fractions solvent, production of polyester fibers, dyes. Three (3) isomers: ortho (feed stock for phthalic anhydride manufacture - pigment), meta (manufacture of isophthalic acid), & para (household fabrics, clothing, carpets). (syn: *o, m, or p-xytol, dimethylbenzene*).

INTERLOCAL AGREEMENT

for the

OHIO COUNTY REGIONAL WASTEWATER DISTRICT

Ohio County
City of Beaver Dam
City of Centertown
City of Hartford

October 15, 2002

October 15, 2002

COMMONWEALTH OF KENTUCKY

Upon the enactment of identical ordinances establishing and setting out the powers of the Ohio County Regional Wastewater District, hereinafter referred to as the District, by each of the legislative bodies of Beaver Dam, Hartford, Centertown and Ohio County.

NOW, THEREFORE, be it ordained, jointly, as follows:

SECTION 1. Establishment of the Ohio County Regional Wastewater District

In order to provide for the protection of public health, safety and welfare of its citizens, there is hereby created and established, under and pursuant to the provisions of KRS 76.232, a Regional Wastewater District to own, manage, control and operate regional comprehensive wastewater facilities within Ohio County.

The duration of the District shall be perpetual. The District may be dissolved at any time by joint action of the cities, acting by and through their respective legislative bodies provided that, if at any time of such dissolution there is outstanding any indebtedness or obligations of the District, such indebtedness or obligations shall be properly discharged or proper provision therefore shall be made by the District. In the event the District is dissolved, title to all properties and assets (after provision has first been made for the payment and satisfaction of any indebtedness and liabilities and expenses incident thereto) shall vest in the cities, automatically and without necessity for formal conveyance.

SECTION 2. Board of Directors Structure

a) The Ohio County Regional Wastewater District shall consist of (7) board members. The District shall be comprised of the following appointments: two appointments from each of the mayors of Hartford, Centertown and Beaver Dam. Additionally, the Ohio County Judge/Executive shall make one appointment. The appointment shall be evidenced by written order executed by each of the referenced appointing officials. All appointees shall be qualified as required by KRS 76.232.

October 15, 2002

b) Members of the Board shall be persons of outstanding reputations for ability and integrity, shall be at least 25 years of age, a current resident of Ohio County and will serve for a term of four years.

c) Members so appointed shall take office on December 1, 2002. For convenience, each member shall serve for the period of December 1, 2002 through December 31, 2002, as part of the initial term outlined below. After the expiration of the terms of these initial appointments, all subsequent appointments shall be for terms of four (4) years.

1. Mr. Jim Porter, representing the City of Hartford, is appointed to the District for a term of four (4) years ending 01/01/06.
2. Mr. Jon Lawson, representing the City of Hartford, is appointed to the District for a term of four (4) years ending 01/01/06.
3. Mr. Harold Chinn, representing the City of Centertown, is appointed to the District for a term of three (3) years ending 01/01/05.
4. Ms. Kelly Roe, representing the City of Centertown, is appointed to the District for a term of three (3) years ending 01/01/05.
5. Mr. David Taylor, representing the City of Beaver Dam, is appointed to the District for a term of two (2) years ending 01/01/04.
6. Mr. Paul Hines, representing the City of Beaver Dam, is appointed to the District for a term of two (2) years ending 01/01/04.
7. Mr. Leslie White, representing the Ohio County Fiscal Court, is appointed to the District for a term of one (1) year ending 01/01/03.

d) In the event of a Board vacancy and also at least thirty (30) days preceding the expiration of the term of office of any appointed Board member, a successor shall be appointed by the appropriate governing official. However, the incumbent member shall serve until such

October 15, 2002

time as the vacancy has been filled. All vacancies shall be filled for the unexpired term, and all other appointments shall be for a term of four (4) years.

e) Any Board member by appointment, upon expiration of their term, shall be eligible for reappointment.

f) Any person who shall have held an elective office within Ohio County shall not be eligible for appointment until at least one (1) year after the expiration of the term of the proposed appointee was elected.

g) Each appointed Board member shall be removable for cause as set forth by state statutes.

h) Any appointed Board member failing to attend three (3) regularly-scheduled successive meetings, or a minimum of seventy-five (75) percent of all meetings within a one-year period, without cause acceptable and approved by the District Board, may be removed from office and the vacancy filled as provided for herein.

i) The officers of the District Board shall be bonded by the Ohio County Wastewater District Board, and all bonds shall be payable to the District in the sums the Board may fix, with approved corporate surety, and premiums therefore shall be paid by the District.

j) The private property of the Incorporators and Directors shall not be subject to or in any way liable for any debt, obligation or contract of the District or any judgment against the Authority.

SECTION 3. Board Meetings; Quorum

a) The District Board shall meet no less than once per month, and may adopt rules and bylaws for the time and location of their meetings and conduct thereof.

b) A minimum of four (4) voting members present shall be required to constitute a quorum. An affirmative vote of a majority of those members present where a quorum exists shall be required to approve any motion, measure or action; excepting those actions which would

October 15, 2002

adjust rates, employ or terminate an Executive Director or incur indebtedness shall require a minimum of four (4) affirmative votes.

c) A permanent record of Board proceedings shall be maintained, and shall be available for inspection as public record.

SECTION 4. Officers, Employees, Staff

a) The officers of the Ohio County Regional Wastewater District Board shall be appointed by the governing body for the initial four-year term. The Chairperson, Vice-Chairperson and Treasurer shall be annually elected by and from all members of the Board. At the first meeting of the Ohio County Regional Wastewater District Board, and annually thereafter, the Board shall elect a member to serve as Chairperson. The Chairperson shall preside at all meetings when present and shall have the authority to call special meetings and shall also call special meetings when requested to do so by two (2) Board members. The Vice-Chairperson shall preside at meetings in the absence of the Chairperson. Subject to election by the Board, all officers shall be eligible for re-election to the respective positions.

b) The District shall have the power to employ an Executive Director and other staff, as it may deem necessary and appropriate. The Board, through the Executive Director, shall employ, direct, fix the salary and discharge any employee. The Executive Director shall be responsible directly to the Board. Other staff shall be responsible to the Board through the Executive Director. All employees shall be subject to any Civil Service or personnel regulations subsequently adopted by the Board.

c) The District shall require the Executive Director to execute a bond, and may exact from such of its other officers and employees bonds, as it deems expedient. All bonds shall be payable to the District in the sums as the Board may fix with approved corporate surety, and premiums therefore shall be paid by the District.

October 15, 2002

proposed establishment or adjustment in rate structure shall be in compliance with Section 3(b) of this ordinance and in accordance with the process set out in KRS 76.090.

f) To borrow money and issue negotiable bonds, and to provide for the rights of the holders thereof.

g) To establish service area boundaries, define service within those boundaries and establish policies for same.

h) To enter any lands, waters and premises for the purpose of making surveys and soundings and examinations.

i) At the time that wastewater service becomes available to require payment of applicable monthly wastewater charge by a residence, business or other establishment.

j) To discontinue service for non-payment.

k) To approve or revise the plans and designs of all wastewater facilities proposed to be constructed, altered or reconstructed, including wastewater lines, pump stations or wastewater treatment plants, by any other person or entity within Ohio County, excepting the Facilities Planning Area of Fordsville. Additionally, this power shall be construed to allow the District to devise, implement and enforce programs dealing with pretreatment of wastewater prior to introduction into its system. This review power and establishment of a pretreatment program shall be for the purpose of assuring the compatibility of any proposed facilities with the comprehensive regional wastewater system. Where appropriate and applicable this right to review shall be extended to local code enforcement officials.

l) To complete or have completed a new and fully updated Regional Facilities Plan. At a minimum this plan shall consider the short and long-term needs of Beaver Dam, Hartford and Centertown and those unincorporated areas of Ohio County lying proximate to any of the cities and those areas of Ohio County where high growth might be expected. A person or firm of